

1 MICHAEL WALTON
2 P.O. Box 751
3 San Anselmo, CA 94979
4 (415) 456-7920
5 In Propria Persona

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 FOR THE COUNTY OF MARIN

RECEIVED

DEC 09 1994

HUB LAW OFFICES

8 CHURCH OF SCIENTOLOGY)
9 INTERNATIONAL, a California)
10 not-for-profit religious)
11 corporation,)
12)
13 Plaintiff,)
14)
15 vs.)
16)
17 GERALD ARMSTRONG; MICHAEL)
18 WALTON; THE GERALD ARMSTRONG)
19 CORPORATION, a California for)
20 profit corporation; DOES 1)
21 through 100, inclusive,)
22)
23 Defendants.)
24 _____)
25

CASE NO. 157 680

EVIDENCE IN SUPPORT OF
OPPOSITION OF MICHAEL WALTON
TO PLAINTIFF'S MOTION FOR LEAVE
TO COMPLETE DISCOVERY; REQUEST
FOR SANCTIONS AGAINST MICHAEL
AND SOLINA WALTON
Date: December 16, 1994
Time: 9:00 A.M.
Location: Dept. 1
Judge Gary W. Thomas
Trial Date: May 18, 1995

26

VOLUME ONE

1 INDEX TO EXHIBITS

2 VOLUME ONE

3 Declaration of Michael Walton

4 Exhibit A: Letter from Ms. Laurie Bartilson to Michael Walton dated
5 November 17, 1994.

6 Exhibit B: Letter from Michael Walton to Laurie Bartilson dated
7 November 21, 1994.

8 Exhibit C: Letter from Laurie Bartilson to Michael Walton dated
9 November 22, 1994.

10 Exhibit D: Letter from Michael Walton to Laurie Bartilson dated
11 November 29, 1994.

12 VOLUME TWO

13 Exhibit E: Michael Walton's Response to Plaintiff's Demand for
14 Inspection of Real Property.

15 Exhibit F: Solina Walton's Response to Plaintiff's Demand for
16 Inspection of Real Property and Objection to Deposition of Solina
17 Walton.

18 Exhibit G: Declaration of Gerald Armstrong dated November 16, 1994.

19 Exhibit H: "Litigation Noir" an article from the December 1994
20 issue of California Lawyer magazine.

21 Exhibit I: "Scientologists Report Assets of \$400 Million", an
22 article dated October 22, 1993 which appeared in The New York Times
23 newspaper.

1 MICHAEL WALTON CABAR #97947
2 P.O. Box 751
3 San Anselmo, CA 94979
4 (415) 456-7920
5 In Propria Persona

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 FOR THE COUNTY OF MARIN

8 CHURCH OF SCIENTOLOGY)
9 INTERNATIONAL, a California)
10 not-for-profit religious)
11 corporation,) CASE NO. 157 680
12)
13 Plaintiff,)
14)
15 vs.) DECLARATION OF MICHAEL WALTON
16) IN OPPOSITION TO
17) PLAINTIFF'S MOTION FOR LEAVE
18 GERALD ARMSTRONG; MICHAEL) TO COMPLETE DISCOVERY; REQUEST
19 WALTON; THE GERALD ARMSTRONG) FOR SANCTIONS AGAINST MICHAEL
20 CORPORATION, a California for) AND SOLINA WALTON
21 profit corporation; DOES 1) Date: December 16, 1994
22 through 100, inclusive,) Time: 9:00 A.M.
23) Location: Dept. 1
24 Defendants.) Judge Gary W. Thomas
Trial Date: May 18, 1995

25 I, Michael Walton, declare under penalty of perjury under the
26 laws of the State of California that the foregoing recitation is
27 true and correct.

28 (1) Declarant is a defendant in this lawsuit and an attorney
29 duly licensed to practice in the State of California.

30 (2) On November 21, 1994, declarant received via U.S. mail a
31 letter from Scientology's attorney, Laurie Bartilson dated November
32 17, 1994 regarding the discovery which is the subject of this
33 motion. On that same day, November 21, 1994, declarant responded to
34 that letter. True and correct copies of those letters are attached
35 hereto as Exhibits A and B, respectively.

1 (3) On Tuesday, November 22, 1994, two days before
2 Thanksgiving, declarant began a six day Thanksgiving vacation
3 (three of those days were either weekend days or holidays). Upon
4 declarant's return to his office on Monday, November 28, 1994, he
5 received a letter from attorney Bartilson dated November 22, 1994
6 (a true and correct copy of which is attached as Exhibit C). In
7 addition to the letter, there was service of the instant motion
8 under separate cover. And finally, there were two messages on the
9 office answering machine both time stamped November 22, 1994. There
10 were no other messages from Ms. Bartilson or anyone else
11 representing CSI regarding this attempted discovery either before
12 or after the ones received on November 22, 1994.

13 (4) There were no telefaxes despite the notation on Ms.
14 Bartilson's letters that there had been telefax transmission. On
15 prior occasions, Ms. Bartilson has purported to transmit documents
16 to Walton's office by telefax which are never received.

17 (5) The next day, November 29, 1994, declarant responded to
18 Ms. Bartilson's letter of November 22, 1994. A true and correct
19 copy of that letter is attached hereto as Exhibit D). An
20 examination of the dates of these correspondences readily show that
21 there was no refusal to meet and confer. If anything, such an
22 examination shows that Ms. Bartilson has misrepresented to the
23 court the true and correct development of events relating to the
24 "meet and confer" requirement.

25 (6) Declarant never intended , nor did he, attempt to avoid a
26 meet and confer with Scientology attorneys at any time since the

1 commencement of this litigation.

2 (7) Attached hereto as Exhibit E is a true and correct copy of
3 Michael Walton's Response to Plaintiff's Demand for Inspection of
4 Real Property.

5 (8) Attached hereto as Exhibit F is a true and correct copy of
6 Solina Walton's Response to Plaintiff's Demand for Inspection of
7 Real Property and Objection to Deposition of Solina Walton.

8 (9) Attached hereto as Exhibit G is a true and correct copy of
9 the Declaration of Gerald Armstrong dated November 16, 1994.

10 (10) Attached hereto as Exhibit H is a true and correct copy
11 of "Litigation Noir", an article from the December 1994 issue of
12 California Lawyer magazine.

13 (11) Attached hereto as Exhibit I is a true and correct copy
14 of "Scientologists Report Assets of \$400 Million", an article dated
15 October 22, 1993, which appeared in The New York Times newspaper.

16 (12) On or about September 12, 1994, declarant had a telephone
17 conversation with Ms. Bartilson in which Ms. Bartilson, in a
18 hostile and threatening manner, told declarant that CSI would never
19 allow this case to settle against Mr. Walton and would only make
20 things worse for him unless Mr. Walton would agree to "put pressure
21 on your friend" (defendant Armstrong) to capitulate in the case
22 that underlies the instant one; i.e. the Los Angeles breach of
23 contract case (now consolidated with this one). Mr. Walton declined
24 to interfere in the underlying case.

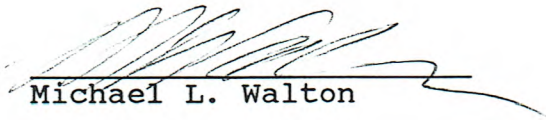
25 The facts hereinabove recited are personally known to
26 declarant and if called upon to testify, declarant could and would

1 competently do so. I declare under penalty of perjury under the
2 laws of the State of California that the foregoing recitation is
3 true and correct.

4 Dated: December 8, 1994

5 Place: San Anselmo, CA

6
7



Michael L. Walton

BOWLES & MOXON
ATTORNEYS AT LAW
6255 SUNSET BOULEVARD
SUITE 2000
HOLLYWOOD, CALIFORNIA 90028

TIMOTHY BOWLES *
KENDRICK L. MOXON #
LAURIE J. BARTILSON †
HELENA K. KOBRIN ‡

(213) 463-4395
TELECOPIER (213) 953-3351

* ALSO ADMITTED IN OREGON
ALSO ADMITTED IN THE DISTRICT OF
COLUMBIA
† ALSO ADMITTED IN MASSACHUSETTS
‡ ALSO ADMITTED IN FLORIDA

November 17, 1994

BY TELEFAX AND U.S. MAIL

Michael Walton, Esq
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

P.O. Box 751
San Anselmo, CA 94979

Re: Church of Scientology International v. Gerald Armstrong et al., Marin County No. 157 680

Dear Mr. Walton:

I am writing concerning plaintiff's demand to inspect the real property which is the primary subject of this lawsuit; that is, the house on Fawn Drive which Gerald Armstrong conveyed to you in August, 1990, and to which your wife now claims title. The demand was served on you and your wife, in a timely fashion, on October 27, 1994. In response, I have received an objection from you alone, which objects that the requested inspection violates your privacy, is irrelevant, burdensome, oppressive, "harassive," and not calculated to lead to the discovery of admissible evidence. You additionally recite C.C.P. § 2024(a) as grounds for your objection. I write this letter in the hope that we may resolve our differences and allow the requested discovery without a need for a motion to compel.

Mr. Walton, as you well know, the house and its value are central issues in this case. Plaintiff seeks this inspection in order to have the house appraised by a professional real estate appraiser. Such a request is hardly "irrelevant." In an action in which the main issues concern the fraudulent conveyance of cash and real property from Mr. Armstrong to you, it is both relevant and likely to lead to the discovery of relevant evidence. Nor would the requested inspection invade your "privacy;" I am certain that between us we can agree upon conditions that will allow the appraiser to complete his inspection in the least intrusive manner possible.

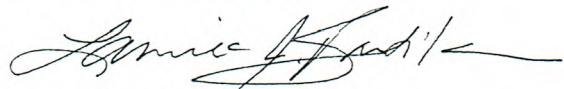
Ford Greene
November 17, 1994
Page 2

While relying for your objection here on C.C.P. § 2024(a), you have simultaneously filed a demurrer to the complaint against your wife in which you complain that she is prejudiced because she may not obtain further discovery. I propose that we solve both problems by stipulating to an extension of the discovery cut-off until thirty days before the presently-scheduled trial date, pursuant to C.C.P. § 2024(f). It seems that both of us consider that good cause exists for such an extension.

Please advise me promptly whether you will agree to an extension of the discovery cut-off, and whether you will permit an inspection of the Fawn Drive property. In the event that you are unwilling to extend the discovery cut-off so that plaintiff can inspect the property, I will be forced to file a motion for an extension pursuant to C.C.P. §2024(e). Your attention is directed to §2024(e)(4).

Sincerely,

BOWLES & MOXON



Laurie J. Bartilson

LJB:mfh
cc: Andrew H. Wilson, Esq.
Michael Lee Hertzberg, Esq.
Ford Greene, Esq.
Paul Morantz, Esq.

MICHAEL L. WALTON
ATTORNEY AT LAW
700 LARKSPUR LANDING CIRCLE
SUITE 120
LARKSPUR, CA 94939
(415) 456-7920

November 21, 1994

Ms. Laurie Bartilson
6255 Sunset Boulevard
Suite 2000
Hollywood CA 90028

Re: CSI v. Armstrong #157 680

Dear Ms. Bartilson

I am in receipt of your letter dated November 14, 1994. I disagree with your conclusions stated therein regarding an "inspection" of my home. Should your client obtain a judgment against me which relates to 707 Fawn Drive, my objection to an evaluation might change.

Since real estate values continually fluctuate, the value of 707 Fawn Drive today may be different at the time of the conclusion of the trial some six to seven months from now. Absent a court order, no representative of your client will be permitted entry to my home.

You indicate receipt of my sole objection. If you examine your file you should find the additional objection by my wife. I include a copy herewith.

Be advised that I will oppose any motion to reopen discovery in the Marin action.

Very truly yours,

Michael L. Walton

MLW/
cc: Ford Greene, Esq.

BOWLES & MOXON
ATTORNEYS AT LAW
6255 SUNSET BOULEVARD
SUITE 2000
HOLLYWOOD, CALIFORNIA 90028

TIMOTHY BOWLES *
KENDRICK L. MOXON #
LAURIE J. BARTILSON †
HELENA K. KOBRIN ‡

(213) 463-4395
TELECOPIER (213) 953-3351

* ALSO ADMITTED IN OREGON
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COLUMBIA
† ALSO ADMITTED IN MASSACHUSETTS
‡ ALSO ADMITTED IN FLORIDA

November 22, 1994

BY TELEFAX AND U.S. MAIL

Michael Walton, Esq
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

P.O. Box 751
San Anselmo, CA 94979

Re: Church of Scientology International v. Gerald Armstrong et al., Marin County No. 157 680

Dear Mr. Walton:

I have received no response to my letter or phone calls of the past week concerning the above-entitled case. As you know, I am attempting to resolve the dispute which has arisen concerning the inspection of the property and deposition of your client, Solina Walton.

You have claimed (by way of demurrer) that Ms. Walton is prejudiced because she has not been able to conduct discovery in the proceedings and discovery is now closed. Kindly identify the discovery which you believe Ms. Walton needs to take. If her requests are reasonable, and not duplicative of earlier discovery which you yourself have taken, plaintiff will of course be willing to stipulate that she may take the desired discovery.

This is the second time that I have requested this information from you. Your failure to respond is indicative that you have advanced an argument to the court that has no basis in good faith -- i.e., you are unable to identify a single discovery action which Solina allegedly must take in this action.

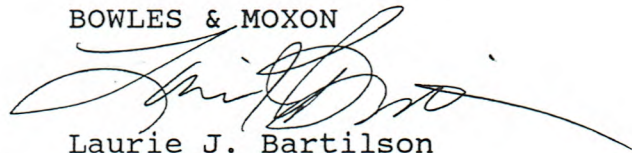
In addition, I have proposed a reasonable stipulation which would allow plaintiff to complete relevant and necessary discovery as well. You have not responded at all to my request.

Michael Walton, Esq.
November 22, 1994
Page 2

Please be advised that I will seek costs and sanctions if I am forced to bring a motion to resolve this discovery dispute because of your refusal to discuss these matters with me in good faith.

Sincerely,

BOWLES & MOXON

A handwritten signature in black ink, appearing to read "Laurie J. Bartilson", with a long horizontal flourish extending to the right.

Laurie J. Bartilson

LJB:mfh
cc: Andrew H. Wilson, Esq.
Michael Lee Hertzberg, Esq.
Ford Greene, Esq.
Paul Morantz, Esq.

MICHAEL L. WALTON
ATTORNEY AT LAW
700 LARKSPUR LANDING CIRCLE
SUITE 120
LARKSPUR, CA 94939
(415) 456-7920

November 29, 1994

Ms. Laurie Bartilson
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Hollywood CA 90028

Re: CSI v. Armstrong, Marin County Action

Dear Ms. Bartilson:

Your letter dated November 22, 1994 arrived at my office in yesterday's mail. I note that you indicate that it was also transmitted by facsimile. Since my facsimile machine has been inoperable for some time, I suspect that you have repeated your prior actions of transmitting to a fax number that is not mine. In addition to receiving your letter yesterday, I received under separate cover, your Motion for Leave to Complete Discovery. I note that your declaration indicates that you tried numerous times to contact me. Other than two telephone messages left for me on Tuesday, November 22, 1994, the same date as your recently received letter, I have not received any other unanswered telephone messages from you. You do not have to leave several messages on the same day. I return messages as quickly as I can.

By now, of course, you will have received my letter dated November 21, 1994 and since I have received your motion, it would appear that we have nothing further to discuss at this time.

Very truly yours,

Michael L. Walton

MLW/
cc: Ford Greene